



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/105,840	06/26/1998	DAVID BILL	TDS-001	6055

7590 06/19/2002

STEVEN A SWERNOFKSY
POST OFFICE BOX 390013
MOUNTAIN VIEW, CA 940390013

EXAMINER

PHAN, MAN U

ART UNIT PAPER NUMBER

2665

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/105,840

Applicant(s)

Bill

Examiner

Man Phan

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 26, 1998.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-9, 12-15, and 18-92 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, 12-15, and 18-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Apr 18, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2665

Response to Amendment and argument

1. This communication is in response to applicant's 04/18/2002 Amendment in the application of Bill for a "Distributed personalized content" filed 06/26/1998. The proposed amendments have been entered and made of record. Claims 4, 5, 10, 11, 16 and 17 have been canceled and Claims 1-3, 6-9, 12-15, 18, 20, 21, 23, 24, 27, 29-31 and 33 have been amended. The system means and computer program claims product 34-92 have been added. Applicant's newly presented claims are equivalent to the combination of the original claims and the amended claims above, and will be examined as discussed below. Claims 1-3, 6-9, 12-15 and 18-92 are pending in the application.

2. Applicant's amendments to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C.103 as discussed below. Applicants' amendment and argument with respect to the rejected claims have been fully considered, but they are not persuasive for at least the following reasons.

3. Applicant's argument with respect to the rejected claims (Pages 13, last paragraph) that the cited references do not disclose "*determining or assigning a score to the content element*". However, Reed et al. (US#6,041,239) teach the step of determining the offered load in Erlangs (one Erlang is equal to one full hour of phone use or conversation per hour of clocktime or 1 call

Art Unit: 2665

minute per minute) for that subregion (*determining the score to the content element*). These offered loads are then used to assign base station transceivers within each subregion (*the score is used for distributing an offered load over a wireless communications systems service area*) (Col. 1, lines 35 plus). Reed further teach in Fig. 6 depicted a logic flowchart that illustrates the method of calculating and locating an *offered load* according to the method and system of the present invention, in which a road density *factor for each tile* in the service area (*score for the content element in a pool*) is calculated using the transportation database, as illustrated at block 208. Such road *density factors* are proportional to the capacity of the portions of roads included in each tile. The road *density factor* may be calculated by determining the highest capacity transportation artery in the tile and looking up an associated appropriate road density factor (Col. 4, lines 53 plus).

Claim Objections

4. Claims 32, 35 are objected to because of the following informalities: These claims are method claims which are depended on the system claim 24. Appropriate correction is required.

5. Claim 92 is objected to because of the following informalities: This claim is a system claim which is depended on the computer program claim 86. Appropriate correction is required

Art Unit: 2665

6. Claim 29 is objected to because of the following informalities: The phrase “an adjusted threshold, said adjusted threshold being in response to said result for comparing” is repeated twice in the claim. Appropriate correction is required .

7. Claims 40, 58 are objected to because of the following informalities: It is not clear what the “said plurality in response to said scores” is. Appropriate correction is required.

8. Claim 71 is objected to because of the following informalities: It is not clear whether “selecting code segment” is the same as “second selecting code segment” as claimed in claim 68. Appropriate correction is required.

9. Claim 50 is objected to because of the following informalities: The phrase “that differs from said pool” is repeated twice in the claim. Appropriate correction is required .

10. Claim 50 is objected to because of the following informalities: The phrase “in said one content element an individual recipient” should be --in said one content element by an individual recipient--. Appropriate correction is required.

Art Unit: 2665

Claim Rejections - 35 USC § 112

11. Claims 1, 24, 27, 29, 36, 54, 72, 79, and 86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are a statement of desired results. The claimed method and system fail to indicate any interaction between elements (the content, score, pool, predicted interest...) as to how the interest thresholds are determined and selected. It is not clear what the “selected threshold” process is or what is involved in determining a “selected threshold”.

12. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 36 recites the limitation "said content elements" in line 2; however, there is insufficient antecedent basis for this limitation in the claim since no “content elements” has previously been identified or claimed. For purposes of continued prosecution, the antecedent is thought to be the “content elements” in line 2.

13. Claim 70 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 70 recites the limitation "said second selecting code segment" in line 1; however,

Art Unit: 2665

there is insufficient antecedent basis for this limitation in the claim since no “second selecting code segment” has previously been identified or claimed in claim 67 as it stated.

14. Claims 43, 44, 61, 62, 77, 84, 91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims fail to indicate any interaction between elements (the content, score, pool, predicted interest...) as to how the interest thresholds are determined and selected. It is not clear what the “selects responsive” (claim 43) , and “selected condition” (claim 44) processes are or what is involved, related in determining a “selected threshold”.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2665

16. Claims 24-32, 35 and 36-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaddha (US#6,345,293) in view of Reed et al. (US#6,041,239).

In so far as it is understood, regarding claims 24-32, 35 and 36-53, the references teaches the capability of effectively and efficiently distributing of message communication system for facilitating communications between a network distribution device and a large numbers of recipients. Chaddha (US#6,345,293) discloses a distribution of customized multimedia content over a network, enabling personalized multimedia content targeted at specific end users. Chaddha teaches in Fig. 5 illustrated a cost effective bandwidth selection for transmitting scalable multimedia content to the end user which corresponds to the likelihood of patronage (*responsive to a predict interest by an individual recipient - step 530*). The end user factors (*including regularity of patronage at the business, customer's income history, credit worthiness, age, hobbies, occupation and marital status - step 520*) are used to select an appropriate transmission bandwidth (step 540). Such an arrangement is advantageous because the personalized content (*predicted interest by an individual recipient*) is targeted at end user who have a higher probability of interest in the personalized content based on the personal profile (Col. 7, lines 10 plus and the abstract; Figs. 2-4).

However, Chaddha does not expressly disclose the step of determining a score for one of a set of content elements in a pool. In the same field of endeavor, Reed (US#6,041,239) teaches a method and system for calculating and distributing an offered load over a wireless communications system service area for the purpose of facilitating base station layout in the

Art Unit: 2665

service area. Reed teaches in Fig. 6 depicted a logic flowchart that illustrates the method of calculating and locating an *offered load* according to the method and system of the present invention, in which a road density *factor for each tile* in the service area (*score for the content element in a pool*) is calculated using the transportation database, as illustrated at block 208. The load that will be offered to a wireless communication system over a defined service area is predicted using a set of demographic and transportation route databases, along with a user-selectable set of input parameters, some of which may be referred to as market factors or road density factors. These databases may be commercially available or assembled by the users. The user-selectable input parameters are used to estimate the load offered by each region in the service area and distribute this load appropriately throughout the service area. The output, which may be in the form of a map depicting the offered load, differs from offered load predictions obtained using prior art methods in that significant percentages of the offered load may be selected regions and placed on the transportation arteries or in other regions in order to model movement of the users between their residential neighborhoods and places of work or leisure. Additionally, the input parameters may be a function of time, which means that different maps may be obtained for various times of day. For example, during weekday morning rush hours, larger amounts of the offered load may be placed on the transportation arteries compared to the load placed on the transportation arteries during the hours of 9-11 a.m (Col. 2, lines 33 plus).

Art Unit: 2665

17. Regarding claims 1-3, 6-9, 12-15, 18-23, 33 and 34, they are method claims corresponding to the apparatus claims above. Therefore, claims 1-3, 6-9, 12-15, 18-23, 33 and 34 are analyzed and rejected as previously discussed with respect to claims 24-32, 35 and 36-53.

18. With respect to claims 54-71, These claims differ from claims Chaddha in view of Reed et al. in that the claims recited a computer program product for performing the same basis of steps and apparatus of the prior arts as discussed in the rejection of claims 24-32, 35 and 36-53 above. It would have been obvious to a person of ordinary skill in the art to implement a computer program product in Chaddha in view of Reed et al. for performing the steps and apparatus as recited in the claims with the motivation being to provide the efficient enhancement for distributing personalized content to potentially large numbers of recipients, and easy to maintenance, upgrade.

One skilled in the art would have recognized the need for efficiently providing a distribution system for facilitating communications between a network distribution device and a large numbers of recipients based on personalized content, and would have applied Reed's novel use of distributing offered load using the upon static data that represents users in their home into Chaddha's method for generating and delivering personalized multimedia content targeted at specific end users via client computer coupled to the computer network. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Reed's method and apparatus for distributing offered load in a wireless communications

Art Unit: 2665

system into Chaddha's personalized information for an end user transmitted over a computer network with the motivation being to provide a method and system for distributing personalized content to potentially large number of recipients.

19. Claims 79-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaddha (US#6,345,293) in view of Reed et al. (US#6,041,239) as applied to the claims above, and further in view of Logan et al. (US#5,721,827).

With respect to claims 79-85, Chaddha (US#6,345,293) and Reed et al. (US#6,041,239) disclose the claimed limitations discussed in paragraph 16 above. These claims differ from the claims above in that the claims require the determining a score for more than one of several different content elements in a pool of content elements, and selecting one of the plurality of content elements in response to the scores. Logan et al. (US#5,721,827) in the same field of endeavor disclose a system for selectively distributing personalized information and entertainment programming to subscribers. In a principle aspect, the present invention take the form of a personalized information delivery system which provides information and entertainment programming to individual subscribers from a library consisting of a large number of diverse programs, and which incorporates mechanisms for selectively delivering a subset of those programs to a given subscriber based on that subscriber's characteristics, subject matter preferences and interests, and express requests. As contemplated by the invention, the library of programs is created and maintained by a server subsystem to which a remotely located

Art Unit: 2665

subscriber/player subsystem can connect by means of a conventional data transmission link, such as a dial up Internet connection. The programs making up the library are subdivided into program segments (*plurality of content elements*), one of which contains an audio presentation of the content of the program and, if that content includes a voice narrative, it is preferably accompanied by a text file transcript. Each program segment is associated with a subject category description (*determining a score for more than one of several different content elements in a pool of content elements*) which typically describes a plurality of related program segments, and a program topic description describes the content of each individual program segment. Combinations of these category and program descriptions which are of interest to a particular subscriber are transferred from the server subsystem to that subscriber's player subsystem, thereby providing a subject matter catalog (*selecting one of the plurality of content elements in response to the scores*) from which the subscriber may expressly request particular programs (Fig. 6 and Col. 1, lines 39 plus).

20. Regarding claims 72-78, they are method claims corresponding to the apparatus claims discussed in paragraph 19 above. Therefore, claims 72-78 are analyzed and rejected as previously discussed with respect to claims 79-85.

21. With respect to claims 86-92, These claims differ from claims Chaddha in view of Reed et al. And further in view of Logan et al. in that the claims recited a computer program product for performing the same basis of steps and apparatus of the prior arts as discussed in the rejection of

Art Unit: 2665

claims 79-85 above. It would have been obvious to a person of ordinary skill in the art to implement a computer program product in Chaddha in view of Reed et al. And further in view of Logan et al. for performing the steps and apparatus as recited in the claims with the motivation being to provide the efficient enhancement for distributing personalized content to potentially large numbers of recipients, and easy to maintenance, upgrade.

One skilled in the art would have recognized the need for efficiently providing a distribution system for facilitating communications between a network distribution device and a large numbers of recipients based on personalized content, and would have applied Logan's personalized electronic information delivery system, and Reed's novel use of distributing offered load using the upon static data that represents users in their home into Chaddha's method for generating and delivering personalized multimedia content targeted at specific end users via client computer coupled to the computer network. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Logan's system for electronically distributing personalized information, Reed's method and apparatus for distributing offered load in a wireless communications system into Chaddha's personalized information for an end user transmitted over a computer network with the motivation being to provide a method and system for distributing personalized content to potentially large number of recipients.

Art Unit: 2665


Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Mphan

06/10/2002



WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600